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‘As an innovator, I am thrilled to see that I have redeemed myself – I was right and industry giant MediaCorp was, quite simply, wrong.’

– Carlos Fernandes, founder of RecordTV



Appeals court hits RecordTV's play button

By MICHELLE QUAH

[SINGAPORE] A tale of David and Goliath was played out to its familiar conclusion yesterday.

In a ruling, the Court of Appeal has decided in favour of Internet start-up RecordTV, which had been sued for copyright violations by national broadcaster MediaCorp for offering a service allowing viewers to watch the latter's programmes online.

The Court of Appeal, which is the final court of appeal in Singapore, also awarded costs and damages to RecordTV and an injunction restraining MediaCorp from making further threats against it.

RecordTV's website allows registered users to designate free-to-air TV programmes which are then recorded for their later viewing on their computers.

RecordTV founder Carlos Fernandes was elated with the court's decision: "As a Singaporean entrepreneur, I am pleased that I have proven that large companies should never underestimate the tenacity of an entrepreneur. They may have well-paid executives, top lawyers, vast budgets, sprawling buildings, but those are no match for an entrepreneur with a great idea."

His case had grabbed the public's attention because it pitted an underdog against a vastly more established and entrenched opponent. RecordTV made the first strike, launching a pre-emptive lawsuit against MediaCorp in September 2007 for making purportedly groundless threats of legal action.

It had received two letters from MediaCorp after it launched its website in July 2007, asking it to stop its service and threatening to sue it for copyright infringement. RecordTV sued the broadcaster, and MediaCorp made good its threat and counter-sued the start-up for copyright infringement.

Last December, Justice Andrew Ang ruled in favour of MediaCorp, represented by Senior Counsel Davinder Singh of Drew & Napier. Justice Ang decided that while RecordTV had not infringed MediaCorp's right to reproduce its own shows, the start-up had communicated the shows to the public and authorised the public to copy them, and was therefore liable for copyright infringement. He also awarded damages to MediaCorp.

RecordTV, represented by Alban Kang of ATMD Bird & Bird, appealed

against Justice Ang's ruling in January. And the Court of Appeal, comprising Chief Justice Chan Sek Keong and Judge of Appeal Justices Andrew Phang and VK Rajah, yesterday reversed Justice Ang's decision.

In its 45-page judgment, the Court of Appeal said it had to consider "how the courts should interpret copyright legislation in light of the technological advances which have clear legitimate and beneficial uses for the public, but which may be circumscribed or stymied by expansive claims of copyright owners".

'I am pleased to have proven that large companies should never underestimate the tenacity of an entrepreneur.'

– Mr Fernandes

It observed that RecordTV's Web-based offering – which allowed the recording of MediaCorp's free-to-air broadcasts on a remote-storage digital video recorder that users could access on its website to select and play back programmes – was a "significant technological improvement over existing recording methods".

It also said that such an offering was a technological advance not addressed by the Copyright Act, in terms of the copyright owner's exclusive right to copy, communicate to the public and authorise the copying and/or communication to the public of copyright-protected material.

The Court of Appeal concluded that RecordTV was doing no more than making it more convenient for its users to enjoy MediaCorp's shows.

"We are of the view that the public interest is better served by encouraging rather than stifling the use of RecordTV's novel technology, especially given that MediaCorp has not suffered any loss from RecordTV's provision of an additional and better time-shifting service to registered users who are licensed to view the MediaCorp shows," its judgment said.

It said that as long as MediaCorp allowed members of the public to view its free-to-air programmes and record them for their own private and domestic use, the broadcaster had already factored in its alleged "loss of revenue" with respect to its copyright in those shows. The fact that RecordTV can exploit this

relationship does not make its actions unlawful, the court said.

The Court of Appeal ruled that MediaCorp's threats to bring an action for copyright infringement against RecordTV are unjustifiable.

Mr Fernandes, who was named by *Businessweek* as one of Asia's best entrepreneurs of 2009, told BT: "As an innovator, I am thrilled to see that I have redeemed myself – I was right and industry giant MediaCorp was, quite simply, wrong. (And) as a citizen, I am baffled. Here, virtually

Rising trend of last few years snaps, but fresh contract hirings may still have legs

By TEH SHI NING

[SINGAPORE] The number of employees on term contracts in Singapore has dipped for the first time in at least five years, though staffing companies say pockets of fresh contract hiring remain in sectors like finance.

Statistics released by the Ministry of Manpower on Tuesday showed that the number of residents on term contracts fell 5.5 per cent to 186,300 as at June this year, from 197,200 in June last year. Contract workers shrank to just 11.5 per cent of the total workforce – the lowest proportion since 2006, when such data was first collected.

This reversal of the steady uptrend in contract hiring comes with the economy's unusually strong rebound and the corresponding pick-up in permanent hiring, people in the staffing industry say.

But the higher contracting demand many players in the staffing industry now face also suggests that the overall dip arose from a quicker conversion of longer term contracts into permanent places that masked a continued rise in fresh contract hiring.

MOM's workforce report showed that the fall in contract hiring was mostly due to a 15.1 per cent drop in the number of long contracts (a year or more), outweighing the 2.9 per cent rise in shorter term contract hiring (which includes casual and on-call workers).

Fresh contract hiring demand is still increasing, say industry players like Kelly Services, which saw a 15 per cent increase in contract employees placed in the first half of this year compared to the same period last year. "We believe this is due primarily to companies looking to scale up quickly again and finding it hard to source or attract talent in a newly competitive market," said its managing director Mark Sparrow.

Similarly, recruitment services firm Randstad has seen an increase in term contracts on offer from its clients. "Employers are still using contractors as a way

to manage their headcount restrictions," said Randstad business support executive manager Anna Clark-Hall, adding that aside from a persistent increase in low-level to middle management contract posts there has also been a minor increase in interim senior management contracts.

Adecco South-east Asia regional director Lynne Ng said that converting contract posts to permanent ones is common in a recovery. "Employers are often cautious during a recovery and hire contract employees – keeping their workforce flexible and nimble. When large orders come in – or business in general picks up – they can then convert these individuals to full-time employees."

Similarly, recruitment firm Robert Walters, one of the few to report a fall in contract hiring, saw more conversions. "Many clients preferred to convert high performing contractors into permanent staff, as opposed to going through the

Reversal

Resident employees on term contracts

YEAR	NO. ('000)	INCIDENCE
2006	172	11.6%
2007	183.7 (180.2)	12.1% (12.2%)
2008	189.1	12.4%
2009	197.2	12.7%
2010	186.3	11.5%

Notes: Data exclude full-time National Servicemen
† Adjusted figures for 2007
Source: Manpower Research And Statistics Department, Ministry Of Manpower

whole process of recruiting externally," said IT contracting manager Niharika Chaturvedi.

Conversions aside, the rise in contract hiring has been especially marked for skilled, finance-related positions. Robert Half, which specialises in finance and accounting recruitment, has seen contract hires of skilled finance professionals rise 50 to 80 per cent in the last 24 months.

Its Singapore managing director Tim Hird says the current post-recession increase in contract hiring is of a different nature from last year's spike. "During the crisis, companies did not want to invest in permanent headcount from a cost perspective. Now, it's because they can't find enough suitable people and can't hire permanent staff quick enough," he said.

Specialist recruitment firm Ambition Singapore, too, has seen contract hiring demand from the investment banking sector pick up in the second half, as "approval for additional permanent headcount has become more difficult", managing director Paul Endacott said.

Project-based work requiring specific skills is also why it is common to see higher numbers of contract workers in the IT, telecommunications and engineering sectors too, said Adecco's Ms Ng.

But contract hiring remains a tiny fraction of the workforce overall and that

of individual companies, though most BT spoke to deemed the information too sensitive to disclose.

Deloitte Singapore and South-east Asia human resource director Loh Oun Hean said less than one per cent of its staff is on contract and mainly in support functions. Similarly, Stephen Tjoa, partner, People, Performance & Culture at KPMG Singapore, said contract hires make up an "extremely low" proportion of KPMG's headcount.

"Due to the nature of the professional services we provide, we hire largely permanent staff. This allows us to take a longer term view to training and grooming our staff and serving our clients better," he said.

"There isn't yet a very mature professional contracting space. But with job tenures reducing across the board and companies needing to bring very specific skill sets in, we think contracting overall for Singapore will have to grow," said Kelly Services' Mr Sparrow.



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FOREX

	US\$	S\$
US\$ (S\$ per US\$)	–	1.316
£ (US\$/£)	1.558	2.049
EURO (US\$/€)	1.304	1.715
Foreign currency per US\$		S\$
YEN	83.60	63.50
RM	3.155	2.398
HKS	7.768	5.904
BAHT	30.05	22.84
RUPIAH	9,022	6,857
RENMINBI	6.665	5.066
INDIAN RUPEE	45.69	34.73
A\$	1.038	0.789
NZ\$	1.339	1.018

KL COMP	1,485.42	+0.19
NIKKEI 225	9,988.05	+51.01
HANG SENG	23,249.80	+241.81
SET INDEX	1,017.64	+12.52
JAKARTA COMP	3,619.09	+87.88
MANILA COMP	4,002.88	+49.18
SEOUL COMP	1,929.32	+24.69
SHENZHEN B	821.29	+10.88
MUMBAI IND	19,850.00	+328.75
	11am EST	Change
DOW	11,200.34	+194.32
NASDAQ	2,547.89	+49.66

PRIME RATES

SINGAPORE	5.38
MALAYSIA	6.28
HONG KONG	5.00
INDONESIA	15.828
TAIWAN	4.816
JAPAN	1.475
KOREA	9.33
BRITAIN	0.50
US	3.25
CANADA	5.00
SWITZERLAND	0.68
INDIA	11.75

Source: Bloomberg

